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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,009	02/15/2007	Reinhard Weiberle	10191/4639	5977

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

TREAT, WILLIAM M

ART UNIT	PAPER NUMBER
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2181

MAIL DATE	DELIVERY MODE
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11/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

44

Office Action Summary	Application No.		Applicant(s)	
	10/577,009		WEIBERLE ET AL.	
	Examiner		Art Unit	
	William M. Treat		2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/30/06</u> | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 19-36 are presented for examination.
2. The drawings are objected to because Figs. 1 and 2 contain an element (17) labeled "UE" which, while indicative of the German word for switching device (i.e. Umschaltteinrichtung), is meaningless in the English language. Figs. 3 and 4 contain flowcharts without any description of what is taking place in the processing blocks. Fig. 5 lacks meaningful legends. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Grochowski et al. (Patent No. 6,615,366).

5. Grochowski taught the invention of exemplary claim 19 including: a method for switching between at least two operating modes of a processor unit that includes at least two execution units for running programs (col. 3, lines 57-67), comprising: assigning at least one identifier to at least the programs, the identifier allowing a differentiation between the at least two operating modes; switching between the operating modes as a function of the identifier such that the processor unit runs the programs according to the assigned operating mode (col. 9, lines 61-65).

6. As to claim 20, Grochowski taught the method as recited in Claim 19, wherein the programs contain task programs or constitute them, and the identifier is assigned to the corresponding individual task programs (col. 7, lines 19-27 and col. 9, lines 61-65).

7. As to claim 21, Grochowski taught the method as recited in Claim 19, wherein the programs are made up of individual program segments or contain them, and the identifier is assigned to the corresponding individual program segments (col. 3, lines 57-64 and col. 9, lines 61-65).

8. As to claim 22, Grochowski taught the method as recited in Claim 19, wherein the programs are made up of individual program instructions, and the identifier is assigned to the corresponding individual program instructions. Grochowski never defines a lower limit for his program segments in terms of number of instructions. His

claim for a program segment in his claim 17 must inherently encompass a single instruction. Also, his embodiment where the OS recognizes the mode of execution and schedules appropriate mode switch instructions would enable a program segment as small as one instruction (col. 7, lines 8-18 and lines 28-39).

9. As to claim 23, Grochowski taught the method as recited in Claim 19, wherein the programs are part of an operating system of the processor unit or constitute the operating system (col. 3, lines 30-45).

10. As to claim 24, Grochowski taught the method as recited in Claim 19, wherein the programs are used for controlling operating sequences of a vehicle. Grochowski's claim 1 is for a processor which can switch back and forth between a high reliability mode and a high performance mode, as applicants' system does. The language of Grochowski's claim 1 related to a processor is so broad as to inherently encompass a processor running programs to control operating sequences of a vehicle.

11. As to claim 25, Grochowski taught the method as recited in Claim 19, wherein a first operating mode is provided which corresponds to a safety mode in which the two execution units run identical programs redundantly (col. 3, lines 55-67).

12. As to claim 26, Grochowski taught the method as recited in Claim 25, wherein conditions or results obtained while the programs are run are compared for agreement, errors being detected if there is a discrepancy (col. 11, lines 10-20).

13. As to claim 27, Grochowski taught the method as recited in Claim 25, wherein the programs are run synchronously (col. 5, lines 62-64).

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14. As to claim 28, Grochowski taught the method as recited in Claim 19, wherein in the second operating mode, which corresponds to a performance mode, each execution unit runs different programs (col. 5, lines 64-65).

15. As to claim 29, Grochowski taught the method as recited in Claim 19, wherein the identifier is in the form of at least one bit (col. 9, lines 61-65).

16. As to claim 30, Grochowski taught the method as recited in Claim 19, wherein a program instruction provided that generates an identifier indicating if the program is to be run in the first or second operating mode (col. 4, lines 50-62). Also, in the embodiment where a predicated mode switch instruction is used (col. 9, lines 61-65), it is inherently compiler/translator instructions which predicate the code with one or more bits.

17. As to claim 31, Grochowski taught the method as recited in Claim 19, wherein the identifier is written to a specific memory area (col. 4, lines 50-62).

18. As to claim 32, Grochowski taught the method as recited in Claim 31, wherein the identifier is generated by an instruction provided in an instruction set of the processor unit (see paragraph 16, *supra*).

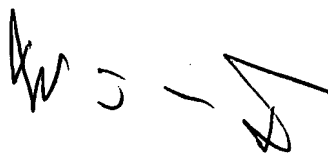
19. As to claim 33, Grochowski taught the method as recited in Claim 32, wherein the identifier is generated by a write instruction. Inherently, it will be some form of write instruction which writes to the CSB registers 124(a) and 124(b) (col. 4, lines 50-62).

20. As to claims 34-36, they fail to teach or define over rejected claims 1-33.

21. Any inquiry concerning this communication should be directed to William M. Treat at telephone number (571) 272-4175.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'W. M. Treat', with a stylized flourish at the end.

**WILLIAM M. TREAT
PRIMARY EXAMINER**